

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

AMY ANASTASION,
Plaintiff,

vs.

CREDIT SERVICE OF LOGAN, INC. dba
ALLIED COLLECTION SERVICE,
BRITTANY APARTMENTS, L.L.C., and
DOES 1-10,
Defendants.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION TO EXCLUDE EVIDENCE

Case No. 2:08-CV-180 TS

This matter is before the Court on Defendants' Motion in Limine to Exclude the Testimony of Stan V. Smith.¹ For the reasons set forth below, the Court will deny Defendants' Motion without prejudice.

Defendants filed the present motion on December 3, 2010, requesting that the testimony of Plaintiff's expert witness Dr. Stan V. Smith be excluded. On December 20, Plaintiff filed Pretrial Disclosures with the Court, which included a Proposed Witness List. Dr. Smith was not

¹Fed.R.Civ.P. 26(a)(3)(B).

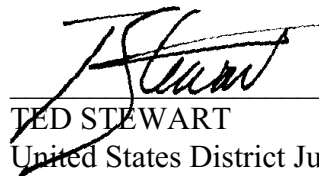
listed as a witness in these disclosures, suggesting that Plaintiff did not not intend to call him at trial and Defendants' motion was moot. Plaintiff then filed an Opposition to the present Motion on December 29, arguing why she should be permitted to call Dr. Smith at trial. However, while this Motion was still pending before the Court, Plaintiff sent the Court a Proposed Pretrial Order on February 8, 2011, that in no way referenced Dr. Smith or his Expert Report. Due to the omission of Dr. Smith on both Plaintiff's Proposed Witness List and Plaintiff's Proposed Pretrial Order, it appears that Plaintiff does not intend to call Dr. Smith at trial.

It is therefore

ORDERED that Defendants' Motion in Limine (Docket No. 113) is DENIED WITHOUT PREJUDICE to its later refiling once it is clear whether Plaintiff intends to call Dr. Smith to testify at trial.

DATED September 16, 2011.

BY THE COURT:



TED STEWART
United States District Judge